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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,616	03/11/2004	James R. Baumann	206.00300102	6205

26813 7590 10/26/2004

MUETING, RAASCH & GEBHARDT, P.A.  
P.O. BOX 581415  
MINNEAPOLIS, MN 55458

EXAMINER
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KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/798,616	Applicant(s) BAUMANN ET AL.	
	Examiner Árpád Fábián Kovács	Art Unit 3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-31 is/are pending in the application.
- 4a) Of the above claim(s) 6-13 and 25-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/10/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

# DETAILED ACTION

## *Claim Rejections - 35 USC § 102*

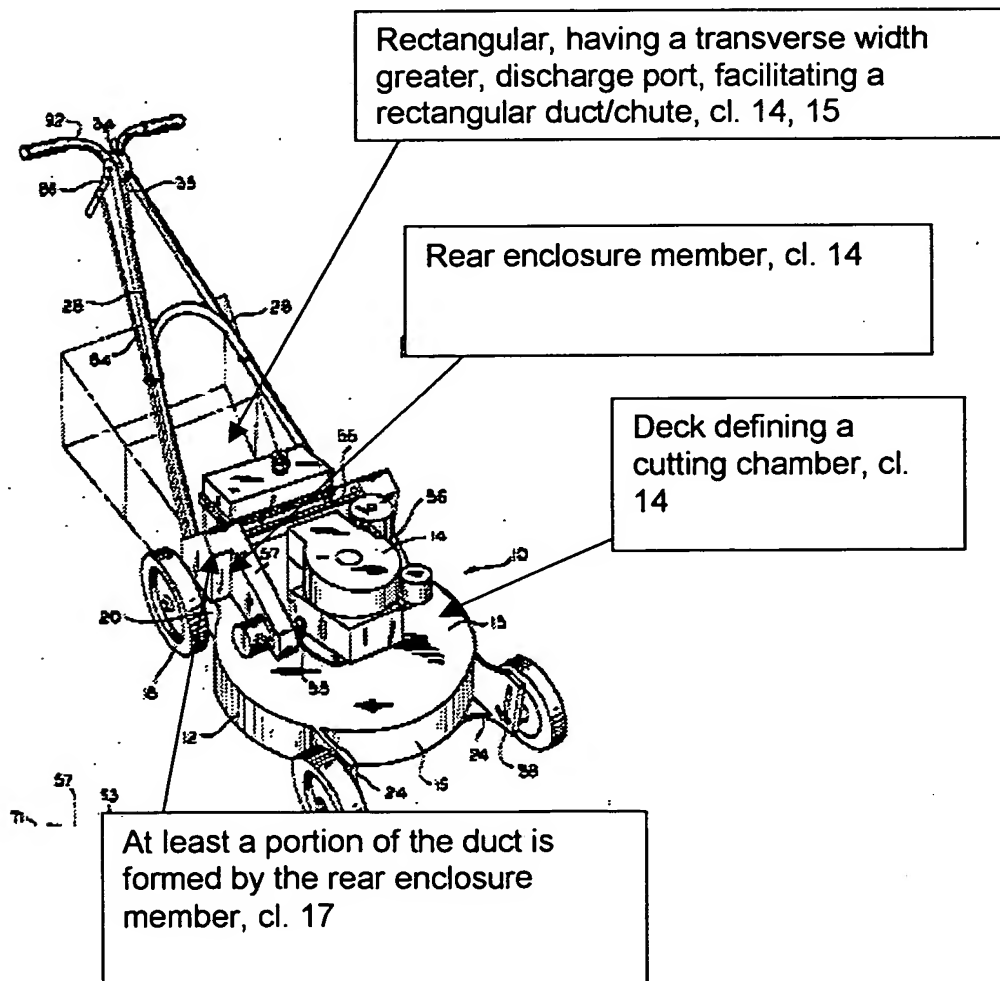
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

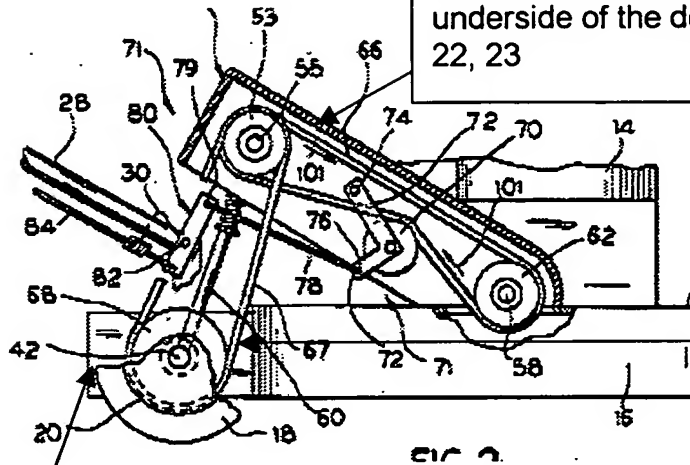
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 14-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Scag (4146105, cited by Applicant).

Scag recites:





A belt cover secured to the underside of the deck, the belt is at least partially enclosed between an underside of the deck & the belt cover, cl. 21; the design shape of the belt cover conforms to the shape of the underside of the deck & abuts the rear enclosure; cl. 22, 23

A belt transmission proximate the rear discharge port, cl 18; and extends through the cutting chamber along an underside of the deck & through a portion of the rear enclosure member, cl. 19, 20

At least a portion of the duct is formed by an underside of the deck, cl. 16

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scag (4146105, cited by Applicant), in view of Sugden (6192666).

Scag discloses the claimed device except for side discharge port.

Sugden discloses that it is known in the art to provide a side discharge port, because it is not always permitted to collect grass clippings; therefore Sugden provides both a rear discharge & collection means and a side discharge means (col. 1, ln 6-15; col. 2, ln 45-47).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the deck of Scag with the teachings of Sugden, in order to be able to conform to varying conditions/rules as to collecting grass clippings and discharging back to the field.

***Election/Restrictions***

5. Applicant's election with traverse of claims 14-24 in the reply filed on 8/23/2004 is acknowledged. The traversal is on the ground(s) that the belt cover is only introduced in the dependent claim. This is not found persuasive because the independent claim 14, only recites features known to all mower deck having a rear discharge, therefore does not set forth the novelty set forth in Applicant's disclosure.

The requirement is still deemed proper and is therefore made FINAL.

Art Unit: 3671

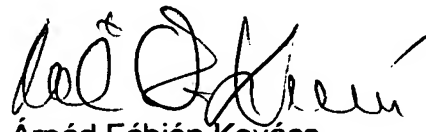
**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Meyer et al., Fontaine, Miyazawa et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Árpád Fábián Kovács  
Primary Examiner  
Art Unit 3671

ÁFK